

REMARKS

Applicant's records indicate that the Information Disclosure Statement submitted July 7, 2000 included copies of the cited patent documents referred to in the PTO Form 1449 attached thereto. Nevertheless, in response to the Examiner's comments contained in paragraph 2 of the Office Action, Applicant is providing additional copies of these documents for use by the PTO.

The application has been objected to under 37 C.F.R. §3.73(b) as lacking evidence of the right of the assignee to take action. In response to this ground of objection, Applicant has enclosed herewith a copy of the assent of the assignee in compliance with 37 C.F.R. §3.73(b) which was filed in the parent application, of which the present application is a continuation.

The declaration has been objected to as defective on the grounds that it specifies the phrase "sole inventor" rather than "joint inventors", as appropriate. In response to this ground of objection, Applicant has enclosed herewith a copy of the SUBSTITUTE DECLARATION AND POWER OF ATTORNEY, REISSUE PATENT APPLICATION, which was filed in the parent application.

Claims 12-14 have been rejected under 35 U.S.C. §112, second paragraph for failing to particularly point out and distinctly claim the invention, based on a number of formal issues cited by the Examiner in paragraph 6 of the Office Action. In response to these grounds of rejection, Applicant has amended the claims in a manner which addresses and is believed to resolve each of the cited formal issues. Accordingly, reconsideration and withdrawal of these grounds of rejection are respectfully requested.

Claims 12-14 have been rejected under 35 U.S.C. §251 on the ground that they improperly recapture subject matter that was surrendered in the issued patent. In response to this ground of rejection, Applicant respectfully submits that the issue of recapture is not raised by the present application in that this is not a situation in which the invention as claimed is the same as that recited in the claims of the issued patent, except for the omission of a particular feature. Rather, the invention for which protection is sought in the present application differs fundamentally from that in the issued patent. In particular, and as acknowledged on page 4 (paragraph A) of the Office Action the patented claims recited "output torque estimation means in a system for controlling selection of gear position for an automatic transmission. By way of contrast, the claims of the

present application are entirely different, utilizing first and second input torque estimating units.

Thus, as noted above, the present application clearly does not present a situation in which the applicant has resubmitted the claims from the patented application omitting a "limitation A" which was deemed crucial to patentability in prosecution of the issued patent. (See MPEP 1412.02, Example C.) Rather, the invention is altogether different; and it is the failure to submit claims directed to this different invention which constitute the "error" within the meaning of 35 U.S.C. §251, by reason of which the patentee claimed "more or less than he had a right to claim in the patent." Therefore, the provisions of MPEP 1412.02 cited by the Office Action do not apply in this case.

In light of the foregoing remarks, this application should be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees, be charged, or any overpayment in fees be credited, to the Deposit Account of Evenson, McKeown, Edwards & Lenahan, P.L.L.C., Account No. 05-1323 (Docket #381TO/41092CO).

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

--12. Control system for an automatic transmission with torque converter comprising:

first input torque estimating unit for estimating an input-torque of said automatic transmission using an engine torque characteristic;

second input torque estimating unit for estimating an input-torque of said automatic transmission using torque-converter characteristic;

selecting unit for comparing the ratio between turbine revolution speed and engine revolution speed (N_t/N_e) and a threshold value, selecting [one of the] **an** estimated [values] **value** from among estimated values from the first input-torque estimating unit and the second input-torque estimating unit in accordance with the comparison result, and outputting the estimated [aue] **value** selected as an estimated torque value, and

control unit for controlling the automatic transmission using the estimated torque value outputted from the selecting unit.

13. Control system for an automatic transmission with torque converter comprising:

first input torque estimating unit for estimating an input-torque of said automatic transmission using an engine torque characteristic;

second input torque estimating unit for estimating an input-torque of said automatic transmission using torque-converter characteristic;

selecting unit for comparing the ratio between turbine revolution speed and engine revolution speed (N_t/N_e) and a threshold value, selecting [the] **an** estimated value from the first input-torque estimating unit when an ratio (N_t/N_e) is not smaller than the threshold and selecting [the] **an** estimated value from the second input-torque estimating unit when the ratio (N_t/N_e) is less than the threshold, and outputting the estimated value selected as an estimated torque value; and

control unit for controlling the automatic transmission using the estimated torque value from the selecting unit.

14. Control system for an automatic transmission with torque [converter comprising:] of said automatic transmission using an engine torque characteristic;

first input torque estimating unit for estimating an input-torque of said automatic transmission using an engine torque characteristic;

second input torque estimating unit for estimating an input-torque of said automatic transmission using an engine torque characteristic;

storing unit for comparing the ratio between turbine revolution speed and engine revolution speed (N_t/N_e) and a threshold value, and memorizing a deviation of [the] estimated values from the first input-torque estimating unit and the second input-torque estimating unit when the ratio (N_t/N_e) is less than the threshold;

calculation unit for comparing the ratio between turbine revolution speed and engine revolution speed (N_t/N_e) and a threshold value, and calculating an estimated torque value by correcting [the] an estimated value from the first input-torque

estimating unit using the [calculated] memorized deviation when
the ratio (Nt/Ne) is not smaller than the threshold; and

control unit for controlling the automatic transmission
using the estimated torque value from the [selecting] calculating
unit.--

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